



U.S. Department of Justice

*United States Attorney  
Southern District of New York*

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*The Silvio J. Mollo Building*

*One Saint Andrew's Plaza  
New York, New York 10007*

March 9, 2012

**BY HAND**

The Honorable Denise L. Cote  
United States District Judge  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

**Re: United States v. Rudy Kurniawan,  
12 Mag. 606 (UA)**

Dear Judge Cote:

The Government respectfully submits this letter in connection with its motion for revocation, pursuant to 18 U.S.C. § 3145(a), of the bail order issued by the Honorable Stephen J. Hillman, United States Magistrate Court, Central District of California, granting defendant Rudy Kurniawan bail.

By way of background, on March 5, 2012, the Honorable Ronald L. Ellis signed Complaint 12 Mag. 606 charging Rudy Kurniawan, the defendant, with five counts. Count One charged a wire fraud scheme to defraud a finance company in connection with a \$3 million loan the defendant was seeking; Count Two charged a wire fraud scheme to defraud a New York auction house in connection with artwork that the defendant pledged as security for millions of dollars of loans; Count Three charged a wire fraud scheme in connection with an effort to sell encumbered assets (namely, wine); Count Four charged an attempted mail fraud scheme to sell hundreds of thousands of dollars of counterfeit wine at auction in New York; and Count Five charged an attempted mail fraud scheme to sell hundreds of thousands of dollars of other wine at auction in London. The defendant was arrested on March 8, 2012 and presented in the Central District of California. After a contested bail hearing, on March 8, 2012, Judge Hillman ordered the following bail package for Kurniawan: a \$175,000 bond secured by property; intensive supervision by pre-trial services; home detention and electronic monitoring; travel limited to Central District of California and the Southern District of New York; surrender of the defendant's passport and no new applications for travel documents; the defendant is not to consume alcohol and he is to be tested for alcohol use; and the defendant was ordered not to work because he may not have legal status in the country that permits him to work. The Government asked for a stay of these bail conditions and Judge Hillman granted a stay until March 14, 2012 to allow the Government to appeal and to allow Kurniawan to post \$175,000 in property. Kurniawan is currently detained.

In the Government's view, the defendant presents an extraordinary risk of flight and there is no condition or combination of conditions that will reasonably assure the defendant's appearance in Court. As detailed more fully below, the defendant presents such a flight risk because: (1) the defendant is an illegal alien with ties to Indonesia, a country for which there is no extradition treaty; (2) given that the defendant has unlawfully and willfully remained in the United States in violation of a voluntary deportation order issued in 2003, ICE has lodged a detainer against him; (3) the defendant – a millionaire with access to substantial funds overseas – has the *means* to flee; and (4) the defendant has the incentive to flee, given the strength of the case against him and the substantial penalties he faces. For these reasons, the Government respectfully submits that this Court, exercising its *de novo* review, should order the defendant detained. *See United States v. Leon*, 766 F.2d 77, 80 (2d Cir. 1985) (district court “should not simply defer to the judgment of the magistrate” and must “reach its own independent conclusion” regarding detention); *United States v. Vasconcellos*, 519 F. Supp. 2d 311 (N.D.N.Y. 2007) (district court's review of Magistrate Court's bail determination is reviewed *de novo*). The Government must prove that the defendant is a flight risk by a preponderance of the evidence. *See, e.g., United States v. Mercedes*, 254 F.3d 433, 436 (2d Cir. 2001); 18 U.S.C. § 3142(c) & (e).

As to the defendant's immigration issues, Kurniawan has no legal immigration status in the United States. He has been living in California in violation of a court order directing Kurniawan to leave the United States no later than April 25, 2003. As set forth in the Complaint, Kurniawan is a citizen of Indonesia who applied for political asylum to the United States in 2001. Kurniawan's application was denied and in 2003, his appeal was dismissed. Kurniawan was ordered to remove himself from the country by April 25, 2003, but rather than comply with the order, Kurniawan unlawfully and willfully remained in the United States. Kurniawan has no pending proceeding before U.S. Immigration and Customs Enforcement (“ICE”) or any immigration court. And in light of Kurniawan's unlawful immigration status and his willful decision to disobey a court order to depart from the United States, ICE placed an immigration detainer on Kurniawan yesterday following his arrest on these charges.

Kurniawan also has the means to flee. Indeed, Kurniawan has considerable resources at his disposal to flee the country if released from the custody of the U.S. Marshals Service. For one thing, Kurniawan also has access to substantial sums of money overseas. Kurniawan has several family members overseas, in particular, two brothers who live in Asia. Kurniawan's family has demonstrated its willingness to provide him with substantial resources when he needs them. For example, from 2010 to June 2011, one of Kurniawan's brothers who resides in Asia sent Kurniawan approximately \$1.5 million from a bank account in Hong Kong. Kurniawan has told others, including members of the press who interviewed him in connection with an article about collecting wine, that his family has business interests overseas. Kurniawan thus has access to large sums of money in Asia that would allow him to live comfortably if he chose to flee the United States. It also bears noting that Kurniawan's native Indonesia does not have an extradition treaty with the United States, so it is almost certain that if Kurniawan fled to Indonesia that he would never be brought back to the United States to face criminal charges.

Kurniawan also has powerful incentives to flee the country once he is released because the case against him is very strong – and getting stronger. Kurniawan is charged with, among other things, attempting to sell counterfeit wine for more than \$1.3 million. Yesterday, the

FBI searched Kurniawan's home pursuant to a judicial search warrant and found an elaborate counterfeiting operation. The agents found and seized, among other things, the following:

- Thousands of printed wine labels to many of the most expensive wines in the world, such as Domaine de la Romanée-Conti and Chateau Petrus. A photograph of some of the labels that were seized is attached as Exhibit A.
- Hundreds of corks, foil wrappers used to cover corks, and wax used to seal corks. A photograph of some of the foil wrappers and labels is attached as Exhibit B.
- Scores of rubber stamps for vintages (years in which a wine was made), the names of wineries, and other identifying features found on wine bottles. A photograph of some of the rubber stamps is attached as Exhibit C.
- Glue, stencils, special scissors that cut paper in the particular pattern of certain wine labels.
- A mechanical device used to insert corks into wine bottles.
- Scores of bottles in the preparatory stages of being converted into counterfeit bottles, such as bottles without labels, bottles with inconsistent labeling (for example, bottles with counterfeit labels attached but some of the authentic labels still on the bottle because they had not yet been removed by Kurniawan).
- Bottles of moderately priced California wine with writing on the bottles indicating that the California wines would be used to pass as expensive Bordeaux wines.
- Bottles soaking in the kitchen sink to aid in the removal of the wine labels.

The evidence of Kurniawan's counterfeiting activities, based on the results of the search of his home alone, is overwhelming.

There is also very compelling evidence that Kurniawan engaged in three other schemes related to his wine collecting activities. As explained in the Complaint, Kurniawan defrauded the Financing Company by falsely understating his liabilities by more than \$11 million, lying about his immigration status, and lying about his monthly expenses. The evidence of this fraud is clearly and powerfully set forth in a handful of documents that Kurniawan himself prepared or signed, such as the loan application or the Affidavit of Confession of Judgment. Kurniawan defrauded the Financing Company and the New York Auction House by double-pledging collateral without notifying either party, and the proof of this crime is also clearly set forth in a small number of documents that Kurniawan signed. The same is true of the allegation that Kurniawan sold wine to the International Auction House when Kurniawan was not permitted to sell his wine without the proper consent. In sum, the evidence that Kurniawan was selling counterfeit wine and defrauding multiple parties in other ways as well, is exceptionally strong and Kurniawan has every reason to flee if he is released.

The strength of the case is significant for the purposes of assessing Kurniawan's risk

of flight, because the penalties for these crimes are substantial. The defendant, if found guilty of all charges currently pending against him, faces a maximum sentence of 100 years' imprisonment. A conservative estimate of his Guidelines Range would be no lower than 87 to 108 months' imprisonment.<sup>1</sup>

Kurniawan claimed at the bail hearing that he cares for his mother and that he would not flee because she is in the United States. That fact is not sufficient, however, to ensure that Kurniawan does not flee. Kurniawan's mother can be cared for, to the extent she needs any care, by Kurniawan's two siblings. Furthermore, Kurniawan's family has access to substantial financial resources, so they can make arrangements to ensure that her needs are met. Also, in the event that Kurniawan is released, Kurniawan can flee to Indonesia with his mother. Her presence in the United States does not ensure that Kurniawan will stay in the country since she can follow Kurniawan to wherever he decided to go.

In conclusion, the Government has established by a preponderance of the evidence that Kurniawan poses a flight risk and that no bail conditions or combination of conditions will adequately assure his attendance in court. He should be detained pretrial as a flight risk pursuant to 18 U.S.C. § 3142(e).

Respectfully submitted,

PREET BHARARA  
United States Attorney

By: \_\_\_\_\_/s/  
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Enclosures

cc: Luis Li, Esq. (Counsel for Rudy Kurniawan)

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<sup>1</sup> This assumes a base offense level of 7, an additional 20 points for a loss amount exceeding \$7 million but less than \$20 million, and 2 points for sophisticated means.